In the High Court for the States of Punjab and Haryana, at Chandigarh.

R.S.A. No.2957of 2004
Decided on Oct 11,2007.

Jaspal Singh -- Appellant

vs.

Daulat Singh and others -- Respondents.

Present: Mr.H.S.Baath,Advocate,for the appellant

Mr.Kasturi Lal,Advocate,for respondent No.1.

Permod Kohli, J:(Oral)

This is a Regular Second appeal filed by defendant No.3 in the suit against concurrent findings of fact recorded by the Courts below.

Respondent No.1 filed a suit for declaration that he is owner in possession of land measuring 9 kanals and 11 marlas and also that the names of Gajinder Chand son of Narinder Chand- predecessor-in-interest of defendant Nos. 1 and 2 and that of defendant No.3, have been wrongly entered in the column of cultivation. The appellant's claim in the suit was that Jatinder Chand was in possession of the suit property as a gair maurusi, who handed over the possession of the same to him (defendant No.3) vide writing dated February 01,1982, and thus, he is in possession

of the suit property.

On the basis of evidence on record, the trial Court vide its judgment and decree dated January 25,2002, decreed the suit declaring the plaintiff to be owner in possession of the suit property. An appeal came to be preferred in the Court of Learned Addl. District Judge, Rup Nagar, by the present appellant. The Appellate Court dismissed the appeal vide its judgment and decree dated February 21,2004. It has been recorded by both the Courts that the property was initially in the name of Satya Devi wife of the plaintiff. As per record of jamabandi for the year 1983-84, she was recorded as owner in possession. Satya Devi executed a Will dated July 31,1987 during her life time and bequeathed the property in favour of her husband. After the death of Satya Devi, the property was duly mutated in the name of the plaintiff and is also reflected in the jamabandi for the year 1988-89. Mutation No. 1386 is also placed on record. On the basis of the material, both the Courts have decreed the suit.

Learned counsel for the appellant (defendant No.3) has tried to impress upon the Court that the suit was barred by limitation both in respect to the declaration as also for possession. According to the learned counsel, the suit was filed after a period of 12 years and thus, it was barred by limitation. As regards declaration is concerned, it is stated that the suit was filed after three years.

I am unable to accept this contention as no declaration was sought for declaring any document as null and void. It is declaration of status of the plaintiff as owner in possession. Since the plaintiff was claiming to be in possession of the suit property, there was no question of

limitation of 12 years,as alleged. No substantial question of law arises. There being concurrent findings of fact, no interference is warranted.

Hence, this Regular Second Appeal is hereby dismissed.

Oct 11,2007 **(Permod Kohli)**
RR **Judge**